

AMENDED IN SENATE JUNE 9, 2014
AMENDED IN SENATE FEBRUARY 20, 2014
AMENDED IN ASSEMBLY MAY 29, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 155

Introduced by Assembly Member Alejo

January 22, 2013

An act to add Section ~~87 11.1~~ to the Monterey County Water Resources Agency Act (Chapter 1159 of the Statutes of 1990), relating to water, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 155, as amended, Alejo. Monterey County Water Resources Agency: ~~Salinas River Management Program~~. *design-build.*

~~Existing~~

(1) Existing law, the Monterey County Water Resources Agency Act, establishes the Monterey County Water Resources Agency as a flood control and water agency within the County of Monterey.

~~This bill would require the agency to establish a multiobjective, multibenefit consensus-based comprehensive Salinas River Management Program and would require the agency to establish a steering committee to develop the program. By requiring the agency to establish a new program, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,~~

reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would authorize the agency to award a design-build contract for the combined design and construction of a project to connect Lake San Antonio, located in the County of Monterey, and Lake Nacimiento, located in the County of San Luis Obispo, with an underground tunnel or pipeline for the purpose of maximizing water storage, supply, and groundwater recharge.

(2) The bill would declare that, due to the unique circumstances of the agency, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~yes~~^{no}. State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The Salinas Valley contains some of the most fertile land
4 in, and is a leading provider of produce to, the world, and due to
5 the economic impact of its production it contributes to the general
6 economic well-being of the state.

7 (2) As of 2014, the state, including the County of Monterey, has
8 experienced extraordinary drought conditions, which threaten, in
9 part, the economic viability and agricultural production of the
10 valley.

11 (3) In light of these extraordinary drought conditions, the
12 Governor, on January 17, 2014, declared a state of emergency.

13 (4) The Monterey County Water Resources Agency (hereafter
14 the agency), established pursuant to Chapter 1159 of the Statutes
15 of 1990, owns and controls two reservoirs: Lake San Antonio,
16 located in the County of Monterey, and Lake Nacimiento, located
17 in the County of San Luis Obispo.

18 (5) These lakes provide water storage for, and flood control
19 protection to, the Salinas Valley Groundwater basin downstream
20 of the lakes, and also improves water supply and groundwater

1 *recharge in the basin, which contribute to the economic viability*
2 *and agricultural production of the valley.*

3 *(6) The agency has previously undertaken projects to improve*
4 *water storage and groundwater recharge within the basin,*
5 *including the Salinas Valley Water Project, which, in part,*
6 *implemented modifications to the spillway in the dam at Lake*
7 *Nacimientto, and in the operation of the dams and spillways at the*
8 *lakes.*

9 *(7) Despite these projects, the current drought conditions will*
10 *have long-term significant impacts on the agricultural production*
11 *in the valley, and additional appropriate projects are necessary*
12 *to ensure the continued economic viability and agricultural*
13 *production in the valley, especially in light of future conditions as*
14 *may be affected by global climate change.*

15 *(8) The watershed of Lake Nacimientto generally experiences*
16 *more runoff from storms and thus provides more water for storage*
17 *than does the watershed of Lake San Antonio and, as a result,*
18 *water otherwise available for storage at Lake Nacimientto is lost*
19 *due to volumes exceeding its storage capacity.*

20 *(9) The agency has proposed a project to connect Lake*
21 *Nacimientto and Lake San Antonio by an underground tunnel or*
22 *pipeline that would be constructed within a right-of-way or other*
23 *easement acquired by the agency for that purpose.*

24 *(10) The project will maximize overall water storage at the lakes*
25 *by allowing the conveyance of water to Lake San Antonio for*
26 *storage that may otherwise overflow from Lake Nacimientto, thus*
27 *improving the benefits provided by the lakes and the Salinas Valley*
28 *Water Project to the basin and the valley, mitigating the impact*
29 *of the drought, and improving the economic viability of the valley*
30 *and its agricultural production, all benefitting the state.*

31 *(11) Utilizing an alternative project delivery system, consisting*
32 *of a design-build contract, will provide benefits by shifting the*
33 *liability and risk for cost containment and project completion to*
34 *the design-build entity, and will provide for the more timely and*
35 *efficient project delivery in light of the current drought conditions*
36 *and the Governor's emergency declaration.*

37 *(12) The agency has requested the authority to utilize the*
38 *alternative project delivery system in conjunction with a project*
39 *labor agreement that meets the requirements of Chapter 2.8*
40 *(commencing with Section 2500) of Part 1 of Division 2 of the*

1 *Public Contract Code so as to complete the project in a more*
2 *timely and efficient manner without any disruptions.*

3 *(b) It is the intent of the Legislature that the design-build process*
4 *set forth in Section 2 of this act may be used by the agency solely*
5 *for the purpose of the project, and not for other purposes.*

6 *SEC. 2. Section 11.1 is added to the Monterey County Water*
7 *Resources Agency Act (Chapter 1159 of the Statutes of 1990), to*
8 *read:*

9 *11.1. (a) The following definitions apply to this section:*

10 *(1) "Design-build" means a procurement process in which both*
11 *the design and construction of a project are procured from a single*
12 *entity.*

13 *(2) "Design-build entity" means a partnership, corporation, or*
14 *other legal entity that is able to provide appropriately licensed*
15 *contracting, architectural, and engineering services as needed*
16 *pursuant to a design-build contract.*

17 *(3) "Lakes" means collectively Lake San Antonio, located in*
18 *the County of Monterey, and Lake Nacimiento, located in the*
19 *County of San Luis Obispo, both owned and operated by the*
20 *Monterey County Water Resources Agency.*

21 *(4) "Project" means a project to connect the lakes with an*
22 *underground tunnel or pipeline for the purpose of maximizing*
23 *water storage, supply, and groundwater recharge at the lakes, and*
24 *within the Salinas Valley Groundwater Basin and the Salinas*
25 *Valley proper, including all necessary subsurface and surface*
26 *improvements.*

27 *(5) "Project labor agreement" means an agreement that meets*
28 *the requirements of Chapter 2.8 (commencing with Section 2500)*
29 *of Part 1 of Division 2 of the Public Contract Code.*

30 *(b) (1) Notwithstanding any other law, the agency may award*
31 *a design-build contract for the combined design and construction*
32 *of the project.*

33 *(2) If the agency does award a design-build contract as*
34 *authorized under paragraph (1), it shall do the following:*

35 *(A) Establish a procedure for the selection of the design-build*
36 *entity for the project.*

37 *(B) Award the contract based upon a written proposal that is*
38 *determined to be the most advantageous to the agency.*

1 (C) *Ensure that the design-build entity selected for the project*
2 *enters into a project labor agreement that will bind all of the*
3 *contractors performing work on the project.*

4 (c) *The agency may utilize a design-build contract solely for*
5 *the project and for no other purpose.*

6 SEC. 3. *The Legislature finds and declares that a special law*
7 *is necessary and that a general law cannot be made applicable*
8 *within the meaning of Section 16 of Article IV of the California*
9 *Constitution because of the unique circumstances of the Monterey*
10 *County Water Resources Agency.*

11 SEC. 4. *This act is an urgency statute necessary for the*
12 *immediate preservation of the public peace, health, or safety within*
13 *the meaning of Article IV of the Constitution and shall go into*
14 *immediate effect. The facts constituting the necessity are:*

15 *In order to mitigate the conditions within the County of Monterey*
16 *caused by the current drought and as set forth by the Governor in*
17 *the related emergency declaration, it is necessary that this act take*
18 *effect immediately.*

19 SECTION 1. ~~Section 87 is added to the Monterey County~~
20 ~~Water Resources Agency Act (Chapter 1159 of the Statutes of~~
21 ~~1990), to read:~~

22 87. (a) ~~The Legislature hereby finds and declares all of the~~
23 ~~following:~~

24 (1) ~~The Salinas River watershed consists of 4,200 square miles~~
25 ~~of land. Much of the watershed is prime agricultural and rangeland,~~
26 ~~providing a strong base for the region's economy. Much of the~~
27 ~~land within the watershed provides housing, employment,~~
28 ~~recreation, and education opportunities for central coast residents~~
29 ~~and visitors from throughout the state, nation, and world.~~

30 (2) ~~The Salinas River watershed includes portions of the~~
31 ~~Counties of Monterey and San Luis Obispo and each of those~~
32 ~~counties is concerned about the ability of its communities to sustain~~
33 ~~a high quality of life with regard to agriculture, housing, commerce,~~
34 ~~education, and environmental protection.~~

35 (3) ~~The Salinas River watershed includes numerous streams,~~
36 ~~creeks, rivers, wetlands, and estuaries that form the natural drainage~~
37 ~~system that directs rainwater to the ocean. The Salinas River~~
38 ~~watershed also includes numerous manmade water collection,~~
39 ~~drainage, and water disposal projects and systems that also direct~~
40 ~~rainwater to the ocean.~~

1 ~~(4) The Salinas River watershed includes millions of square~~
2 ~~feet of impervious surfaces, such as roads, parking lots, homes,~~
3 ~~commercial and agricultural structures, schools, and playgrounds,~~
4 ~~all of which reduce the amount of natural groundwater recharge~~
5 ~~that would otherwise be available to reduce rainwater runoff.~~

6 ~~(5) The Salinas River watershed includes flood control structures~~
7 ~~that were designed and constructed many years ago. Those flood~~
8 ~~control structures are now proving to be inadequate to protect the~~
9 ~~area's agricultural lands, commercial, residential, and public sector~~
10 ~~buildings, and environmental resources.~~

11 ~~(6) Recent floods along the Salinas River watershed have~~
12 ~~resulted in significant physical and economic loss. The severe~~
13 ~~floods of 1995 damaged approximately 30,000 acres of agricultural~~
14 ~~land, resulted in the permanent loss of 1,100 acres of prime~~
15 ~~farmland to erosion, flood-related losses were estimated at two~~
16 ~~hundred forty million dollars (\$240,000,000), and virtually all the~~
17 ~~flood control levees along the Salinas River were destroyed or~~
18 ~~severely damaged. In 1998, flooding caused 50 roads and highways~~
19 ~~to be closed, with 29,000 acres of farmland damaged, and created~~
20 ~~agricultural losses of over seven million dollars (\$7,000,000). In~~
21 ~~2011, the reported agricultural losses from flooding included~~
22 ~~approximately four million dollars (\$4,000,000) in lost gross~~
23 ~~production value and approximately one million five hundred~~
24 ~~thousand dollars (\$1,500,000) in cleanup and ranch repair.~~

25 ~~(7) The Salinas River flows through and irrigates some of the~~
26 ~~richest and most fertile agricultural lands in the state and even the~~
27 ~~world. The crops grown here are shipped to almost every corner~~
28 ~~of the globe. If a disastrous flood is to occur, the impact will be~~
29 ~~felt worldwide and have serious consequences on our state and~~
30 ~~national economy.~~

31 ~~(8) The County of Monterey agriculture sector generates nearly~~
32 ~~eight billion two hundred million dollars (\$8,200,000,000) annually~~
33 ~~and supports more than 73,000 jobs, including, but not limited to,~~
34 ~~farm workers, packing house employees, truck drivers, and~~
35 ~~warehouse personnel. According to a Department of Food and~~
36 ~~Agriculture report, the County of Monterey is the fourth largest~~
37 ~~agricultural producing county in the state representing almost 10~~
38 ~~percent of the state's annual agricultural production. The County~~
39 ~~of Monterey grows more than 50 crops with an annual gross~~
40 ~~production of over one million dollars (\$1,000,000), including,~~

1 but not limited to, strawberries, lettuce, broccoli, celery, and wine
2 grapes.

3 (9) ~~There is a need for a local, intergovernmental, and~~
4 ~~cooperative governance structure, with public-private partnership~~
5 ~~involvement, for the Salinas River watershed in order to develop~~
6 ~~and implement a systemic, rational, and cost-effective program of~~
7 ~~flood control and watershed management.~~

8 (10) ~~It is the intent of the Legislature, through the enactment of~~
9 ~~this section, to enable the local governments and local residents~~
10 ~~of the Salinas River watershed to exercise appropriate powers to~~
11 ~~ensure that the human, economic, and environmental resources of~~
12 ~~the watershed are preserved, protected, and enhanced in terms of~~
13 ~~watershed management and flood protection.~~

14 (b) ~~The agency shall establish a multiobjective, multibenefit~~
15 ~~consensus-based comprehensive Salinas River Management~~
16 ~~Program. The program shall address the long-term management~~
17 ~~of the Salinas River to protect the unique environmental, cultural,~~
18 ~~and agricultural resources within the Salinas Valley.~~

19 (c) ~~The agency shall establish a steering committee that shall~~
20 ~~develop the program. The steering committee shall include~~
21 ~~representatives from all major interested parties, including, but~~
22 ~~not limited to, landowners, regulatory agencies, environmental~~
23 ~~organizations, the agency, and local governments, including, but~~
24 ~~not limited to, the County of Monterey.~~

25 SEC. 2. ~~If the Commission on State Mandates determines that~~
26 ~~this act contains costs mandated by the state, reimbursement to~~
27 ~~local agencies and school districts for those costs shall be made~~
28 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
29 ~~4 of Title 2 of the Government Code.~~